

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Revision of the Commission's Rules ) CC Docket No. 94-102  
To Ensure Compatibility With )  
Enhanced 911 Emergency Calling )  
Systems )

To: Chief, Wireless Telecommunications Bureau

**REQUEST FOR TEMPORARY STAY**

Texas RSA 15B2 Limited Partnership d/b/a Five Star Wireless ("Five Star"), pursuant to Section 1.3 of the Rules and the Commission's recent Order to Stay, FCC 02-210, released July 26, 2002 ("Stay Order"), hereby requests a temporary stay, up to and including September 1, 2003 or the date occurring six months following receipt of a valid Public Safety Answering Point ("PSAP") request for Phase II E-911 Automatic Location Identification ("ALI") information (whichever is later), of the Rule 20.18(f) requirement that Five Star provide Phase II E-911 service to at least 50% of the its coverage area or population by the date specified in that regulation. Under the definitions set forth in the Stay Order, Five Star is a Tier III carrier providing non-nationwide Commercial Mobile Radio Service ("CMRS"). Five Star intends to implement a network-based Phase II E-911 ALI solution. In support hereof, the following is shown:

**I) Background**

1. Five Star is the licensee of Cellular Radiotelephone Service Station KNKN691, the Frequency Block B cellular system serving the B2 Segment of the Texas 15 - Concho Rural Service Area.

Five Star is a small, rural cellular carrier operating a stand-alone system serving Kerr, Kimble, Gillespie and Kendall Counties in Southwest Central Texas.

2. In its E-911 implementation report filed with the Commission on November 9, 2000, Five Star stated its intent to deploy a network-based Phase II E-911 ALI solution; that it would probably employ both Time Difference of Arrival ("TDOA") and Angle of Arrival ("AOA") technologies throughout its service area; and that it had begun preliminary discussions with several prospective manufacturers, including the Grayson Wireless Division of Allen Telecom. Five Star's system uses switching and base station equipment manufactured by Lucent Technologies.

3. Five Star provides E-911 Phase I service in Gillespie and Kendall Counties; and is in the process of deploying Phase I service in Kimble County. With respect to Kimble County, Five Star's network facilities are configured to comply with Phase I service requirements; but, to date, Five Star has been unable to make the service operational due to difficulties encountered with Verizon, the wireline local exchange carrier in the San Angelo, Texas MSA, which is the location of the 911 routing tandem. Once the problem with Verizon is resolved, Phase I service to Kimble County can be inaugurated quickly. To date, Five Star has received no request for Phase I service from Kerr County.

4. Also to date, Five Star has not received a PSAP request for Phase II E-911 service. The instant request for temporary stay of Section 20.18(f) of the Rules is being filed out of an abundance

of caution because, in view of the lack of availability of Phase II E-911 ALI equipment to Tier III carriers such as Five Star, Five Star will be unable to comply with any future PSAP Phase II request prior to September 1, 2003, at the earliest.

**II) Commitment to Achieving Compliance**

5. Since the filing of its E-911 deployment report in November of 2000, Five Star has been diligent in pursuing deployment of E-911 Phase II technology in a timely manner. Indeed, Five Star has deployed Phase I E-911 service in Gillespie and Kendall Counties; and is in the process of deploying it in Kimble County. However, as noted by the Commission in the Stay Order with respect to Phase II deployment, non-nationwide wireless carriers (such as Five Star) "have much less ability than nationwide CMRS carriers to obtain the specific vendor commitments necessary to deploy E911 immediately;"<sup>1</sup> and that "handset vendors and network-based location technology vendors give priority to the larger, nationwide carriers."<sup>2</sup> Therefore, despite its best efforts and due to circumstances beyond its ability to control, Five Star recognizes generally that it will not be able to meet the Phase II deployment schedule for network-based ALI technology established in the Commission's Fourth Memorandum Opinion and Order, 15 FCC Rcd. 17442 (2000) and embodied in Section 20.18(f) of the Rules; and further recognizes specifically that it will be unable to provide Phase II E-911 service to any requesting PSAP prior to

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<sup>1</sup> Stay Order, Para. 10.

<sup>2</sup> Stay Order, Para. 11.

September 1, 2003, at the earliest.

**III) Temporary Stay Request**

6. Accordingly, Five Star requests a temporary stay of Section 20.18(f) of the Rules to allow it to delay the provision of Phase II E-911 enhanced service, until such time as the necessary E-911 Phase II ALI equipment is available and can be installed. Specifically, consistent with the revised schedule for Tier III carriers set forth in the Stay Order, Five Star requests a temporary stay until September 1, 2003 or the date occurring six-months following receipt of a valid PSAP request, whichever is later.

**IV) Waiver Standards**

7. In its Fourth Memorandum Opinion and Order, 15 FCC Rcd. 17442 (2000), the Commission indicated that the Phase II rules are intended to be applied in a manner that takes into account the practical and technical realities.<sup>3</sup> Recognizing that practical and technical realities might delay Phase II implementation, the Commission established a general approach to dealing with possible requests for waiver of the Phase II requirements.<sup>4</sup> Thus, the Commission provided that its rules may be waived for good cause shown, consistent with Section 1.3 of the Rules.<sup>5</sup> It recognized, in the case of E-911, that there could be instances where technology-related issues or exceptional circumstances may mean that deployment of Phase II may not be possible by the deadlines

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<sup>3</sup> 15 FCC Rcd. 17442 at Para. 22.

<sup>4</sup> Id. at Paras. 42-45.

<sup>5</sup> Id.

established in Sections 20.18(f) and (g) of the Rules.<sup>6</sup> The Commission cautioned that waiver requests should be specific, focused and limited in scope, with a clear path to full compliance and should document the efforts aimed at compliance.<sup>7</sup> In the Stay Order, the Commission temporarily stayed Sections 20.18(f) and (g) of the Rules in lieu of granting waivers, although the showings of the various petitioners were made under the waiver standard.

**V) Five Star Has Met The Waiver Standards**

8. As shown above, Five Star has met the Commission's standards for obtaining the requested temporary stay of Section 20.18(f) of the Commission's Rules. While Section 20.18 of the Rules imposes E-911 Phase II obligations only on Commission licensees (by reason of limitations on the Commission's statutory authority), the Commission has repeatedly acknowledged the obvious, i.e., that achieving full compliance requires the cooperative efforts of carriers, equipment manufacturers and suppliers, and government officials responsible for public safety activities. As a service provider only, Five Star will be unable to achieve compliance with the Commission's Phase II E-911 requirements without the availability of necessary equipment; and, as a small, Tier III CMRS carrier operating a single, stand-alone cellular system serving a rural area, Five Star clearly lacks the economic leverage to influence the decisions of equipment manufacturers, a fact generally acknowledged by the Commission in the Stay Order as

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<sup>6</sup> Id.

<sup>7</sup> Id.

applicable to all Tier II and Tier III non-nationwide CMRS carriers. The simple truth is that there is no technology currently available commercially to small, non-nationwide CMRS carriers (such as Five Star) that will satisfy the Commission's Phase II requirements within the deadlines specified in Section 20.18(f) of the Rules. It is only recently that ALI technology has advanced to the point where Phase II compliance can become a reality. However, once compliant equipment is available in the marketplace to non-nationwide CMRS carriers, it will undoubtedly be several more months before Five Star will be able to obtain delivery of this equipment.

9. Grant of the request for a temporary stay contained herein is in the public interest. Five Star has been diligent in pursuing implementation of Phase II but is unable to do so entirely because of matters that are beyond its ability to control. The instant request for a temporary stay is specific and focused. It notes the unavoidable delays that Five Star has encountered (and will continue to encounter) through no fault of its own. It sets out a clear path to compliance once the necessary equipment becomes available.

WHEREFORE, good cause shown, Five Star requests that the requested temporary stay be granted.

Respectfully submitted,  
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